

**LEBOEUF, LAMB, GREENE & MACRAE**  
L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK  
WASHINGTON, DC.  
ALBANY  
BOSTON  
DENVER  
HARRISBURG  
HARTFORD  
HOUSTON  
JACKSONVILLE  
LOS ANGELES  
NEWARK  
PITTSBURGH  
SALT LAKE CITY  
SAN FRANCISCO

1000 KEARNS BUILDING  
136 SOUTH MAIN STREET  
SALT LAKE CITY, UT 84101

(801) 320-6700

FACSIMILE: (801) 359-8256

E-MAIL ADDRESS: KEVIN.MURRAY@LLGM.COM

WRITER'S DIRECT DIAL: (801) 320-6754

WRITER'S DIRECT FACSIMILE: (801) 359-8256

LONDON  
(A LONDON-BASED  
MULTINATIONAL PARTNERSHIP)

PARIS

BRUSSELS

JOHANNESBURG  
(PTY) LTD.

MOSCOW

RIYADH  
(AFFILIATED OFFICE)

TASHKENT

BISHKEK

ALMATY

BEIJING

**PUBLIC  
DOCUMENT**

June 8, 2004

**Via Email and U.S. Mail**

Matthew D. Cohn  
Environmental Protection Agency  
Region VIII - 8RC 999 18th Street, Suite 500  
Denver, CO 80202-2466

Re: Vermiculite Intermountain Site, Salt Lake City, Utah

Dear Matt:

This is in response to your letter dated May 27, 2004. We understand that David Wilson of PacifiCorp has provided Floyd Nichols with a draft Workplan, including a Health and Safety Plan and a detailed scope of work for the control building work (Appendix B). PacifiCorp will be providing Mr. Nichols with a draft Sampling and Analysis Plan (Appendix A) this week. The detailed scope of work for the soil remediation (Appendix C to the Workplan) will be provided within the next four weeks, after a contractor is selected. PacifiCorp will be issuing a Request for Proposal for the soil remediation work sometime this week. PacifiCorp is now ready to mobilize on the control building work at any time and will be prepared to initiate the soil remediation within the next six to eight weeks.

EPA has been unwilling to accept a number of objections PacifiCorp has with respect to the Administrative Order on Consent ("AOC"). Understanding that the findings of fact and conclusions of law are not binding for any purpose other than enforcement of the AOC, PacifiCorp is willing to accept the April 27, 2004 revision, as modified pursuant to your letters dated May 20, 2004 and May 27, 2004, with one exception relating to access, discussed below.

PacifiCorp cannot accept the final sentence of paragraph 22.x.x.c., which states: "Absence of a PacifiCorp substation journeyman in violation of this Order shall not foreclose access pursuant to this Paragraph." PacifiCorp does not desire to become embroiled in a "turf" battle with the agency over access issues. But this

Matthew D. Cohn  
June 8, 2004  
Page 2

language is not acceptable to the extent it suggests that PacifiCorp is agreeing by contract to permit access without the presence of a journeyman. This is contrary to the existing health and safety policies, rules, regulations, and restrictions that presently apply to the fenced area of the Site, which EPA has agreed to follow. To resolve these concerns, PacifiCorp would like to have the provision deleted. PacifiCorp would also be willing to agree that EPA reserves all access rights provided by law and that nothing in the Paragraph should be interpreted as a waiver of any such rights. Finally, PacifiCorp is also willing to agree that PacifiCorp's failure to provide a journeyman will immediately trigger the stipulated penalties set forth in Paragraph 47(a) until the journeyman is made available. Thus, paragraph 22.x.x.c. should be revised as follows:

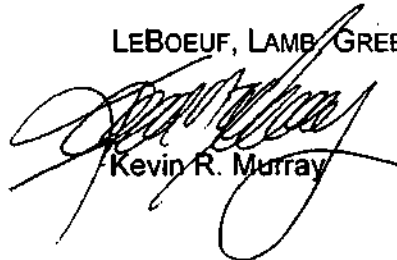
c. request the presence of one or more PacifiCorp substation journeymen, who shall be fully 40-hour trained and available every day and on call for emergencies. Respondent shall ensure that a substation journeyman will be present when such a request has been made. If PacifiCorp fails to provide a substation journeyman in violation of this Order, the stipulated penalties set forth in Paragraph 47(a) shall apply until a substation journeyman is made available. EPA reserves all rights of access to the fullest extent provided by law and nothing in this AOC shall be interpreted as a waiver of any access rights by EPA.

We believe this language provides an appropriate balance of the parties' interests with respect to access and safety, in light of the unusual circumstances presented in this matter.

Finally, please note that the signatory for PacifiCorp will be William Eaquinto, Vice President, T&D Operations. We note that PacifiCorp has made a number of significant concessions to get to this point and we hope that EPA will be willing to reconsider the access provision addressed above. Please contact me at your earliest convenience to follow up on this matter.

Very truly yours,

LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.



Kevin R. Murray

KRM:js

cc: Michael Jenkins  
David Wilson  
Jeffery Tucker